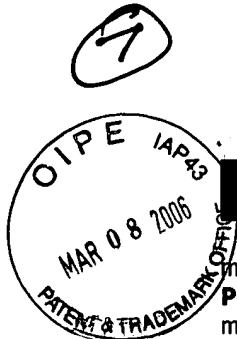


JPW



mike montagne — ADVANCE Information Systems, Inc.
POB 5, 445 NW Bonanza St, Sumpter, OR 97877
mike.montagne@advanceis.com
(541) 894 2306

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Tuesday, February 28, 2006

RE: **Application No. 10/748,194**

ART UNIT: 2167

SERIAL NO: PCT/US04/04532

FILING DATE: 13 February 2004

TITLE: COOPERATIVE, SIMULTANEOUS OPERATION ON DATA BY
 MANY PROCESSES, WITH CONCURRENT RETENTION OF
 PROCESS STATUS, RESUMED PROCESSING, AND MINIMAL
 CONSUMPTION OF INTER-NODAL THROUGHPUT

CERTIFICATION OF RECEIPT OF MATERIALS PROVIDED

Dear Commissioner and PTO,

Please check each received item, sign, date, and return this receipt for provided materials in the enclosed, self addressed, stamped envelope.

- ☐ PETITION TO REVIVE
- ☐ JIM LABARRE EMAIL (1)
- ☐ PTO ABANDONMENT NOTICE TO JIM LABARRE (2)
- ☐ US POSTAL SERVICE DELIVERY CONFIRMATION RECEIPT (3)
- ☐ USPS TRACK AND CONFIRM SEARCH DATA (4)
- ☐ USPS TRACK AND CONFIRM SEARCH DETAIL (5)
- ☐ SEPTEMBER 30, 2005 RESPONSE TO OFFICE ACTION (21 PAGES, ITEM 6)

_____ DATE _____, 2006



ADVANCE

I hereby certify that this **PETITION TO REVIVE AND REQUEST TO HAVE THE HOLDING OF ABANDONMENT WITHDRAWN** is being mailed this 28 day of February, 2006, first class mail, postage prepaid, certified delivery, to the following address:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

[Signature]
February 28, 2006

mike montagne — ADVANCE Information Systems, Inc.
POB 5, 445 NW Bonanza St, Sumpter, OR 97877
mike.montagne@advanceis.com

(541) 894 2306

Tuesday, February 28, 2006

RE: **Application No. 10/748,194**
ART UNIT: 2167
SERIAL NO: PCT/US04/04532
FILING DATE: 13 February 2004
TITLE: COOPERATIVE, SIMULTANEOUS OPERATION ON DATA BY MANY PROCESSES, WITH CONCURRENT RETENTION OF PROCESS STATUS, RESUMED PROCESSING, AND MINIMAL CONSUMPTION OF INTER-NODAL THROUGHPUT

PETITION TO REVIVE:
REQUEST TO HAVE THE HOLDING OF ABANDONMENT WITHDRAWN

Dear Commissioner and PTO,

I, Michael D. Montagne, am the applicant of petition 10/748,194.

On September 30, 2005, I sent a 21 page RESPONSE TO OFFICE ACTION on Application/Control Number 10/748,194 (**Item 6, included**) by first class mail, postage prepaid, certified delivery (**Item 3, included**). I never received a confirmation of delivery from the USPS or PTO, but because I have had returned USPS confirmation receipts delayed as much as more than six months (mailing the President, for instance), I waited patiently.

On December 7, 2005, I received an email (**Item 1, included**), from my patent counsel, Jim Labarre of Burns, Doane, Swecker, and Mathis (or Buchanan Ingersoll PC), indicating that the USPTO is "saying they did not receive the response you sent," and notifying me that if I have the Express Mail Receipt, "we can get the holding of abandonment withdrawn." An

attachment of that email (**Item 2, included**) indicates that the cited notice was mailed from the USPTO on December 1, 2005. I received no notification from the USPTO whatsoever of this abandonment declaration, and **I therefore request that the USPTO please ensure that I am provided copies of all such correspondence or notifications in the future at the Sumpter address indicated in the first page header of this petition.**

As I have not been able to contact Jim Labarre over the past 2 weeks, and as today is the final day at which I can respond within the allowed response period, I, being the applicant, am responding to the declaration of abandonment directly. Please therefore CC any correspondence to the Sumpter address indicated in the first page header of this petition.

As indicated in Mr. Labarre's email, this **PETITION TO REVIVE AND TO HAVE THE HOLDING OF ABANDONMENT WITHDRAWN**, includes a copy of said RESPONSE TO OFFICE ACTION (**Item 6, included**).

As instructed by Jeremy in my telephone conversation to the USPTO this morning, citing 37.CFR.1.181, **this PETITION TO REVIVE AND REQUEST TO HAVE THE PTO'S HOLDING OF ABANDONMENT WITHDRAWN includes the available evidence (and this testimony) that the required RESPONSE TO OFFICE ACTION was sent as stated, within the allowed response period, on September 30, 2005.**

Furthermore then, I hereby certify that the USPS records (**Item 4, included**) accessed by an online Track and Confirm search at <http://www.usps.com/> of my DELIVERY CONFIRMATION RECEIPT (**Item 3, included**) NUMBER 0304 1560 0007 7943 2559, show (contrary to the USPTO claim that my RESPONSE TO OFFICE ACTION was **not** received) **that the status of that document is "Delivered," and specifically, that "Your item was delivered at 10:13 am on October 05, 2005 in ALEXANDRIA, VA 22313."**

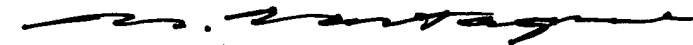
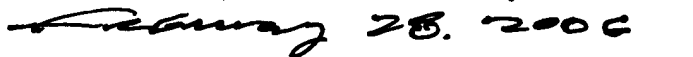
Because the cited record (**of Item 3, included**) was so old, USPS "**details**" of the record were not **immediately** available online, **but could be restored by a request to have the record details restored — which request I issued.** In concurrence with Track and Confirm USPS record (**Item 4, included**), after several hours the record details were restored (made available to online research, **Item 5, included**), which details are:
1) "**Delivered, October 05, 2005, 10:13 am, ALEXANDRIA, VA 22313**";
2) "**Arrival at Unit, October 05, 2005, 10:11 am, ALEXANDRIA, VA 22313**"; and 3) "**Acceptance, September 30, 2005, 11:41 am, SUMPTER, OR 97877**".

After repeating back to Jeremy his stipulation that the aforesaid materials **are all that are necessary to be provided** in this **PETITION TO REVIVE AND REQUEST TO HAVE THE PTO'S HOLDING OF ABANDONMENT WITHDRAWN**, I further asked if anything less than this stipulated set of materials and explanation could result in disqualification of my petition, to which Jeremy (I assume PTO personnel are not to provide their full name) confirmed there is no official title for such a request, and that the materials provided herein are all that are required. As I provided a check for \$510 with my original RESPONSE TO OFFICE ACTION (the required fees at the time of my mailing of the original RESPONSE TO OFFICE ACTION, September 30, 2005), and as that check has evidently been cashed, I have not provided (and assume from

Jeremy's explicit instructions that it is not necessary to provide) a **further** check for fees already paid at this time.

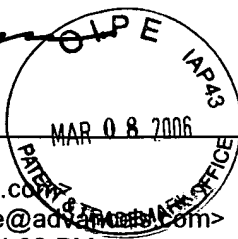
I therefore hereby respectfully request that, as I have in fact faithfully complied with the requisites of responding to the USPTO in all aspects of this very important matter, that the USPTO GRANT THIS REQUEST TO REVIVE MY APPLICATION AND WITHDRAW THE HOLDING OF ABANDONMENT. Please also sign and return the self addressed, enclosed receipt for these provided materials (**Item 7, enclosed**).

Sincerely,

Mike Montagne — Senior Engineer, CEO, ADVANCE Information Systems, Inc.

1
mike montagne



From: "Jim LaBarre" <Jiml@burnsdoane.com>
To: "mike montagne" <mike.montagne@advantec.com>
Sent: Wednesday, December 07, 2005 4:32 PM
Attach: AIS Abandonment.TIF
Subject: Patent Application

Mike,

We got the attached Notice of Abandonment from the PTO. They are saying they did not receive the response you sent.

Do you have the Express Mail Receipt? If so, we can get the holding of abandonment withdrawn. Since they did not receive the original response, we will also have to send them a copy of the response as filed, for their records.

...Jim

<<AIS Abandonment.TIF>>

TAX ADVICE DISCLAIMER: Any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein. If you would like such advice, please contact us.

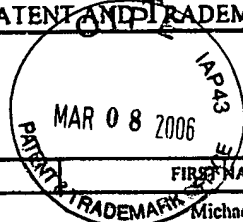
Above email is for intended recipient only and may be confidential and protected by attorney/client privilege. If you are not the intended recipient, please advise the sender immediately. Unauthorized use or distribution is prohibited and may be unlawful.

2/28/2006

2



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,194	12/31/2003	Michael D. Montagne	033724-001	5551

21839 7590 12/01/2005

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

ALI I. MOHAMMAD

ART UNIT PAPER NUMBER

2166

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JAH

BUCHANAN INGERSOLL PC
DEC 02 2005
DOCKETED <i>12-2-05</i>

*Petition to Revoke due
3106*

3

U.S. Postal Service™ Delivery Confirmation™ Receipt

Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

Commissioned for Patents

DELIVERY CONFIRMATION NUMBER:

0304 1560 0007 7943 2559



POSTAL CUSTOMER:

Keep this receipt. For inquiries:
Access internet web site at
www.usps.com®
or call 1-800-222-1811

CHECK ONE (POSTAL USE ONLY)

- ☒ Priority Mail™ Service
☐ First-Class Mail® parcel
☐ Package Services parcel

PS Form 152, May 2002

(See Reverse)

USPS® Delivery Confirmation™ Service

This Service

- provides date and time of delivery and/or attempted delivery upon inquiry
- is only available with Priority Mail Service™, First-Class Mail® parcels, and Package Services parcels (Parcel Post, Bound Printed Matter, Media Mail, and Library Mail)
- A parcel is a box OR an item that is more than 3/4" thick at its thickest point. The face must be large enough for return and delivery address, special service label, markings or endorsements, and postage.

No insurance coverage is provided. If indemnity coverage is desired, consider Insured Mail, or other special service that provides coverage. Contact your local postmaster for information concerning available options and limitations on coverage.

HOW TO USE:



1. COMPLETE
FORM
NEATLY



2. ATTACH LABEL
TO THE LEFT OF
DELIVERY ADDRESS

PS Form 152, May 2002

[Home](#) | [Help](#) | [Sign In](#)[Track & Confirm](#)[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: 0304 1560 0007 7943 2559

Status: Delivered

Your item was delivered at 10:13 am on October 05, 2005 in
ALEXANDRIA, VA 22313.

Additional information for this item is stored in files offline.

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)[Restore Offline Details >](#)[Return to USPS.com Home >](#)

POSTAL INSPECTORS
Preserving the Trust

[site map](#)[contact us](#)[government services](#)[jobs](#)[National & Premier Accounts](#)Copyright © 1999-2004 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

[Home](#) | [Help](#) | [Sign In](#)[Track & Confirm](#)[FAQs](#)

Track & Confirm

Search Results

Label/Receipt Number: 0304 1560 0007 7943 2559

Detailed Results:


- Delivered, October 05, 2005, 10:13 am, ALEXANDRIA, VA 22313
- Arrival at Unit, October 05, 2005, 10:11 am, ALEXANDRIA, VA 22313
- Acceptance, September 30, 2005, 11:41 am, SUMPTER, OR 97877

[< Back](#)[Return to USPS.com Home >](#)

Track & Confirm

Enter Label/Receipt Number.


[Go >](#)POSTAL INSPECTORS
Preserving the Trust[site map](#)[contact us](#)[government services](#)[jobs](#)[National & Premier Accounts](#)Copyright © 1999-2004 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

⑥ 

 ADVANCE

I hereby certify that this response is being mailed this 30 day of September, 2005, first class mail, postage prepaid, to the following address:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



mike montagne — ADVANCE Information Systems, Inc.
445 NW Bonanza St, POB 95, Sumpter, OR 97877
mike.montagne@advanceis.com

Telephone (Pacific Standard Time): (541) 894 2306

Wednesday, June 29, 2005

RE: **Application No. 10/748,194**
ART UNIT: 2167
SERIAL NO: PCT/US04/04532
FILING DATE: 13 February 2004
TITLE: COOPERATIVE, SIMULTANEOUS OPERATION ON DATA BY
MANY PROCESSES, WITH CONCURRENT RETENTION OF
PROCESS STATUS, RESUMED PROCESSING, AND MINIMAL
CONSUMPTION OF INTER-NODAL THROUGHPUT

Dear Mr. Ali,

I have carefully studied the office action and cited patents.

In summary of my study, and without exception, I find the three involved documents to demonstrate conclusively:

- 1) that there is no combination whatsoever of the teachings of my application in the teachings of Wolff or Van Huben as alleged;
- 2) that there is not even any overlapping of the interests of these patents;
- 3) that there are no means or apparatus in common between my application and the Wolff or Van Huben patents whatsoever;
- 4) and that there is not even any shared object in the observations or teachings of these patents and my petition.

More particularly, in regard to the allegation of *obviousness* (which the office action further applies to an alleged combination of teachings which does not exist), I find conclusively that:

5.1) as asserted, the Wolff patent explicitly advocates, and the Van Huben patent implicitly advocates (without even mentioning data locks), **mere conformation to the prior art** in terms of imposing exclusive locks on data instances. My application on the other hand, **only** explicitly refers to said body of conventions (which is only symbolized by the concept of data locks) **to establish the faults and obstructions of the prior art which my petition deals entirely instead, with solving**. Therefore, as both the Wolff and Van Huben patents simply impose locks entirely without even any identification of the problems and very obstructions to any assumed cooperative capacity imposed by said convention, then as *instead* the entire body of my application concerns *identifying and overcoming* the problems and obstructions to true cooperation imposed by said prior art convention, and as my invention also solves further problems likewise not even identified by either of the Wolff or Van Huben patents, thus the entire scope of the material of my application is not only exclusive to the content of the Wolff and Van Huben patents, but in direct conflict with the teachings of Wolff and Van Huben;

5.2) therefore it is impossible it can be obvious from either the Wolff or Van Huben patents to solve these very critical problems which neither the Wolff or Van Huben patents even suggest exist, and of which in particular, the Wolff patent *explicitly* exemplifies the contrary and the Van Huben patent *implicitly* exemplifies the contrary — that no need exists for the solutions brought forth by my application, and which of course are the exclusive objectives of my invention. In particular, the Wolff and Van Huben patents both simply assume, without any provision whatsoever, and without any observation whatsoever implying a fault in the explicit or implicit Wolff/Van Huben assumptions, that their processes **will** be granted exclusive ownership of locks, when in fact the very **exclusive** nature of the locks **itself** precludes but one process from ever acquiring a lock at one time. The Wolff invention therefore is in error in simply assuming its processes successfully acquire locks without exception.

Likewise therefore, anyone in fact following the teachings of Wolff at all, inclusive of this critical omission of means and apparatus to overcome potential denial of the exclusive privilege to write, **is in error in assuming processes (endowed with no such capacity as provided by my invention) will succeed in overcoming the preclusive, singular, exclusive, and potentially persistent nature of data locks** (the very intention of such locks is to exclude simultaneous processing; moreover, it is well known to practitioners of reasonable skill, that all such [generic] processes instead will fail when confronted with [obstructed by] a lock, won by a first process, without any means or apparatus to successfully overcome that obstruction whatsoever);

5.3) therefore any deduction consistent with the explicit teachings of Wolff or implicit teachings of Van Huben not only provides nothing instructive whatsoever to even suggest a need for my invention, but instead stands in direct conflict with even the very arguments of my invention which prove the basic Wolff assumption is in error: Plainly, in EVERY CASE in fact where one process subject only to the principles and acknowledgements of the Wolff invention has acquired an exclusive lock, ALL OTHER PROCESSES can ONLY be denied the exclusive lock, and can only fail;

5.4) the processes of Wolff or Van Huben therefore have NO capacity to cooperate, even if Wolff or Van Huben claim so;

5.5) moreover, nowhere do the Wolff or Van Huben patents claim such an ability to cooperate. The word cooperate is used once in the citings of the office action, and in this instance, contrary to the suggested assumption, the usage explicitly refers merely to the *disposition* of engineers using an

application. The term is NOT used to describe any capacity of internal processes, and certainly no means or apparatus are described as necessary to provide the specific, explicit cooperative powers so carefully prescribed exclusively by my invention;

6) Neither do I claim, as alleged, the prior art convention of data locks. On the contrary, and as is carefully explained in my application, I solve the problems resulting from this necessary convention (which in fact was introduced long before Wolff). Therefore, and moreover, particularly because Wolff only advocates the imposition of locks without even recognizing the probability that contention will inevitably deny his processes the vital acquisition of the singular, exclusive locks, and because Wolff therefore advocates no means or apparatus whatsoever to resolve contending demands for data locks (which comprises the thrust of my invention), there is no combination of the teachings of Wolff as alleged. There is not even any overlapping of the objects of the inventions. **I do not teach to impose locks; I teach an exterior system which overcomes the obstructions imposed by data locks to guarantee every process will acquire its vital lock, and thereby, my invention provides the first truly cooperative behavior comprised of processes which are not excluded from performing their objectives by the singular, exclusive nature of data locks;**

7) Furthermore, I combine far greater capacities in this system of overcoming the preclusive nature of the convention of data locks, by introducing the further aspects of guaranteeing that locks will be acquired by every process, and by guaranteeing that the obligation to write process results to data will even persist, and will even be successfully performed, even after catastrophic failure of the operating environment. **Thus the very same means and apparatus of my invention which is alleged merely to provide cooperation, further introduces an era of inherently resumed processing, and of process reliability, heretofore unknown and altogether unobvious to the prior art, which, like Van Huben and Wolff, has simply accepted the limitations imposed by the convention of locking data.**

These findings are readily confirmed by study of the office action citings, which are in error even in the assumption that any facsimile of cooperative behavior is provided, or even approached, by the cited Wolff or Van Huben documents. **Ensuing points of this response to the office action certify each of the summary points.**

In concurrence with these summarized points, I would first like to point out the unseemly areas of concern featured by the purportedly contending patents, the "Wolff" patent (US 5,999,930) and "Van Huben" patent (US 5,920,867).

The Abstract of the Wolff patent is:

"A distributed *volume management* system is disclosed in which clients on a network share responsibility for the coherency of a data storage volume. The system includes: a control table which includes AVAILABILITY indicia for indication WHETHER the control table is available [WITH NO SUGGESTION WHATSOEVER OF ANY PROVISION FOR **OVERCOMING** WHETHER the control table is available] and identification indicia *for indicating* [SINGULAR]

OWNERSHIP of the control table TO PROVIDE to the clients EXCLUSIVE [SINGULAR] write access to the data storage volume."

Nothing could be clearer then, even from this mere abstract, that the Wolff invention is an opposite to my invention, not just in terms of the Wolff patent *representing* (and *only* representing) the very problems I solve, but also therefore in terms of any *possible* similarities in means and apparatus to do so.

In that my the means and apparatus of my invention are dedicated to *solving the problems only imposed by the Wolff invention*, then inherently my invention shares no similarities in functionality or organization:

- 8) Except for the fact the functionalities of my invention must *contend with* the preclusive conditions Wolff and others long before Wolff impose on writing to data (which preclusive conditions neither the Wolff or Van Huben patents even address), my organization, and my claimed organization, are entirely outside and in addition to the much simpler organizations of the Wolff (and Van Huben) patent(s), both of which are given no power whatsoever to accomplish the objectives of my invention. The office action has erroneously concluded particularly, that merely because I have referred to data locks, I am claiming them. The cited premise for rejecting my claims is the erroneous assertion my application teaches *to practice* what the office action assumes to be Wolff's prior art (imposing said locking convention), and that I ostensibly *combine* the data locks of Wolff's patent with the mere generic database application of Van Huben. Yet it is painstakingly and unequivocally explained in my specification that it is the faults of that prior art (the entire body of conventions which "locks" merely symbolize) which the entirety of the organization of my invention relates to overcoming, and which exclusive efforts to overcome are clearly, entirely outside the scope of Van Huben or Wolff. My petition merely refers to these locks as a matter to be contended with. Rather than claiming the locks as an intrinsic part of my invention (which claim cannot be made [and I believe is not made], even by Wolff), my invention is primarily concerned with overcoming the preclusive conditions imposed by locks (or the singular, exclusive privilege which locks symbolize). Therefore neither the work of Wolff or Van Huben even evidently perceives the obstructive circumstances imposed by locks, if they assume at all that their processes simply achieve or enjoy cooperation, without provision sufficient to overcome practical incidents of preclusion.
- 9) As my specification exhaustively explains that conventions such as "locking" impose conditions which can preclude the success of processes Wolff and Van Huben simply assume will succeed despite the competitive environment the potential for process success is subject to, the entirety of the functionality of my invention is indeed outside the scope of the Wolff and Van Huben patents: My invention is inherently comprised of all the things we must do *to overcome* the preclusive conditions imposed by implementations in common with the Wolff and Van Huben patents, BECAUSE the Wolff patent and the class of implementations it belongs to, provide absolutely nothing useful to the purposes of my invention, which, clearly, beyond both the Wolff and Van Huben patents, A) provides for simultaneous operation on data instances by unlimited processes; B) guarantees every process will be granted write permission in any system made most capable of withstanding a density of such demands to write, by my further

introduction of a system successful in minimizing demand conflicts and ensuring write privileges will be granted within any (outer) system capable of sustaining the demands upon it; C) provides said system for minimizing both demands and duration of the potentially persistent privilege; and D) re-associates the application to a system of private work areas completely distinct from any means and apparatus of Wolff or Van Huben and managed by a cooperative processing object. Together (and only together) these attributes endow every process with a comprehensive system guaranteeing acquisition of a lock, and emulating the relationship between the states of all processes (however complex, however tentative, and/or however convoluted) and the state of the subject data instance, as if processes were freely operating on the public data instance (while in fact, processes actually operate on my private data instances preserving the intent to operate on the public instance, the synchronization of which preserved intent is performed by the cooperative processing object). Finally, my invention, E) does all of this in a way which furthermore ensures that even unfinished processes (which may not have written some of their results to data instances), which potentially unfinished processes exist as tentative, contingent obligations to write to data instances, endure, persist, and are automatically, successfully performed, even after inadvertent termination of the application, or catastrophic failure of the operating environment. As very clearly established in my specification, *all* these capacities are entirely beyond the scope or capacities of the Wolff or Van Huben patents, or any other known prior art.

10) There is no real similarity between the prior patents and my invention therefore, whatsoever.

No mention is even *made* in the Wolff patent of overcoming the preclusive circumstances imposed by singular ownership of an exclusive privilege to write; and certainly the Wolff patent does not venture even a *dream* that process obligations to write can even be made to endure, and can be guaranteed success, not only across application sessions, but even across catastrophic failure of the operating environment.

All of the distinguished, exclusive features of my invention are necessary to these goals. No lacking of a single aspect establishes a capacity to achieve my goals. Therefore one single aspect proven missing disqualifies the entire body of the office action's objection, even if it were not entirely wrong to raise an ostensible issue of obviousness merely because the Wolff patent, advocating the problem I solve, is opposite to my comprehensive resolution; and if it were not further that I absolutely do not combine any claim to the convention of locking at all in my art. If, in fact, that convention were not necessary to *all* art, and if the Wolff and Van Huben patents and all classes of applications like them, did not share the critical faults my invention addresses *and solves*, there would be no need for my invention except to ensure the success of write obligations even across catastrophic failure of the operating environment (which capacity neither Wolff or Van Huben or the prior art even entertain, much less introduce). The Wolff patent inherently teaches nothing opposite to itself and consistent instead with my invention, other than the fact the Wolff patent cannot guarantee the locks it promises. But if the Wolff invention can be construed to teach this at all, the "teaching" can only result from the converse experience, that Wolff processes are not at all guaranteed to "acquire" the write privilege he merely claims they do. The Wolff patent does not even mention the possibility its processes can fail, much less solve that possibility. Yet this is the principal issue of my invention.

Moreover then, the very fact Wolff expects to acquire these vital write privileges without any provision whatsoever to guarantee them despite the facts they are singular and exclusive to all but one process, does not mean he has accomplished what the office action considers to be cooperative behavior, even if either Wolff or Van Huben or any other inventor use the word "cooperative," or any derivative thereof or similar expression, somewhere in their specifications. Nowhere does the abstract or body of the Wolff or Van Huben specification even suggest an ambition or need to overcome the possible persistence of a lock, the very exclusiveness of which itself precludes success of ALL contending processes needing to write their results to a data instance. **Therefore, the cited patents provide no cooperation whatsoever.**

The whole reason locks exist is so hardware actually performing the write operation at least can be asked no more than to perform the obligations of the only *one* process supported by **any and all prior art**. The challenge of providing true cooperation in data-competitive environments — the challenge of eliminating process failure if a process is denied its vital need to write, and the further challenge of providing for unlimited processes to operate simultaneously on a single data instance while guaranteeing all those processes will be able to perform their obligations to write — has, even for decades before Wolff, remained one of the greatest computer science problems. Because we have solved far simpler problems such as division by zero errors, this very problem of potentially persistent process exclusion (by the necessary locking convention) has even been perhaps the last great obstacle to the very perfected process reliability which my invention is dedicated to introducing.

But as we well know, it would be inappropriate to claim rectification of the underlying processes in a specification for an end user application (in the case of Van Huben). Inherently, such inventions are separate inventions (as is recognized by the form of my petition).

The same may also be said for a specification for managing a data volume (in the case of Wolff), unless declared purposes of the management scheme were to overcome the very preclusive conditions I address in my invention. **Yet both the Wolff and Van Huben patents do not even mention the potential for process failure my application addresses;** and both the Wolff and Van Huben patents therefore, on the contrary, restrict their implementations to the imposition of locks with no further means or apparatus whatsoever to guarantee the granting of the exclusive privilege to write, **in opposition to the entire thrust of my invention.**

The Abstract of the Van Huben patent is:

"A data management system for file and database management including a design control system suitable for use in connection with the design of integrated circuits and other elements of manufacture having many parts which need to be developed in a concurrent engineering environment [sic] with inputs provided by users and or systems which may be located anywhere in the world providing a set of control information for coordinating *movement* of the design information through development and to release while providing dynamic tracking *of the status* of elements of the bills of materials in an integrated and coordinated activity control system utilizing a control repository which *can* be implemented in the form of a database (relational, object oriented, etc.) [of no specific type guaranteeing the form and quality of cooperation provided by my invention] or [sic] using a flat file system [which

certainly cannot be construed to be cooperative, but note specifically, there is no suggestion whatever that **any** of these underlying systems *require* improvement to overcome the preclusive circumstances imposed by the exclusive nature of the generic locks imposed explicitly to eliminate simultaneous attempts to write to any given data instance]. Once a model is created and/or identified by control information[,] design libraries hold the actual pieces of the design under control of the system without limit to the number of libraries, and providing [sic] for *tracking* and hierarchical designs which are allowed to *traverse* through multiple libraries. [Human] Data managers become part of the design team, and libraries are programmable to meet the needs of the design group they service. A control repository communicates with users of the *design control system* for fulfilling requests of a user and with data repositories of said data management control system through a plurality of managers. Each manager performs a unique function. Managers act as building blocks which can be combined in a plurality of manners to support an environment for [sic] suitable for multiple users of a user community."

Obviously, the abstract describes a generic end-user database application, without even any mention at all that the underlying systems require the functionality introduced instead by my invention, if Van Huben is to truly achieve the goal of acquiring the exclusive locks he claims simply to acquire. Given the office action, assumably the capacities of the Wolff invention and or Van Huben invention involve write processes endowed with sufficient capacities to cooperate, that the Van Huben processes truly achieve cooperation, even in the mere event (with respect to my invention, which survives catastrophic failure of the operating environment), of one process possessing a singular, exclusive privilege to write, which a further, contending process requires if it truly is to succeed, and particularly if it is to succeed despite preclusive ownership of the exclusive lock by a prior process.

Although Van Huben claims his invention is fit to function in multiple user communities (assumably meaning competitive network environments), he obviously does not identify any problem with conventional systems which will, except in uncontended situations, preclude the opportunity of any Van Huben process to write its result to data (if there even *is* a Van Huben process which might need to write its result to public [potentially contended] data). Yet, in failing to identify the problems he is confronted with, and in persisting in the tradition of preclusive circumstances engendered by the singular, exclusive nature of data locks, Van Huben is not proposing to rectify the underlying functionality of database systems, the processes of which, even across the present art, are subject to the preclusive, exclusive nature of data locks. He is merely emulating or utilizing the very patterns of existing systems to render an end application which claims no power beyond conventional database systems previous to my invention — all of which are simply subject to the singular, exclusive nature of data locks (or equivalent likenesses thereof).

Likewise then, inherently the Van Huben patent shares no common ground.

The office action however has assumed merely from the scantest common verbiage — not from due analysis of the means and apparatus, which are very different — that the inventions share the same capacities to function in data-competitive environments. Yet both the Wolff and Van Huben patents are restricted to imposing the problem my invention solves. My invention, on the other hand, is restricted to solving what problems are imposed and in common **ONLY** to the Wolff and Van Huben patents (versus my invention) — plus what further things I can do beyond these patents by *the way* I solved the problems

Wolff and Van Huben only impose. The latter would be exemplified by my invention's retention and automated, successful performance of the obligation to write, even across catastrophic failure of the operating environment — a capacity most clearly not shared by the Wolff and Van Huben patents, and solely possible because of the very distinctions of my means and apparatus which neither the Wolff or Van Huben patents possess, but that the office action has merely claimed are the same in their near entirety.

This assumption cannot possibly be true, merely for the fact my means and apparatus extend in their entirety beyond the conventional means and apparatus the Wolff and Van Huben patents themselves share in common with the existing art. My invention instead solves the problems merely imposed therein. The cited inventions and prior art therefore, converse to my invention, provide no means or apparatus whatsoever for independent processes to prevail in their obligations to write, despite competition for the singular, exclusive privilege to write to data instances.

There are not even any overlapping areas of functionality *claimed*. Yet by inference, for the scantest common verbiage, the office action claims my means and apparatus are identical.

It is well known in the related art however, and from my specification it is readily understood by practitioners of reasonable skill, that to produce this result unique to my application which neither the Van Huben or Wolff patents even claim, the means and apparatus must be complete, identical in their objects, and, because the issue of concurrent registration is a critical matter, the operations must even be of duration, and *timed* as I prescribe.

There is no "concurrent" registration of any state in the Wolff or Van Huben patents for instance (as specifically described in my petition), unless **altogether**, the state is private to the client application; the application relates to its private states instead of the public instance as described in my petition (this is also necessary to restoring the state of the application "without even any code dedicated to this purpose"); unless any possible disparity between the private state and public instance is resolved as by my cooperative processing object and the explicitly described, private representative states; and unless the states are registered to retentive media exactly when, and over a substantially minimal duration, as my petition declares this is necessary to my objectives. Wolff or Van Huben processes therefore can only fail across catastrophic failure of the operating environment — which even my abstract declares to be a principal object of my invention.

Neither the Wolff or Van Huben patents even mention these issues, while my application addresses their scope only, which scope therefore is entirely outside Wolff and Van Huben — the latter of whom does not even mention locking conventions, and the former of whom merely deploys them as they stand in the prior art, without even recognizing that the very exclusive nature of the write privilege *will* inherently deny EVERY competing process (not endowed with the powers my invention alone provides to overcome this exclusiveness) the vital power to perform that process's obligation to write. Not providing the powers of my invention, the processes of Wolff and Van Huben **WILL** fail **WHENEVER** a competitive incident obstructs the process by the very exclusive nature of the previously won data lock.

Even according to the presented interpretations, the Wolff patent for instance *imposes* the preclusive, singular privilege to write to data, which my invention *contends with*. On the contrary, and very clearly, I do not claim imposition of this lock as a part of my invention. **What therefore can I possibly be taught by the Wolff or Van Huben patents?**

Neither can Wolff rightly claim the convention of locking records or fields or any other units of data structures, which locking convention was regularly practiced in database systems for at least 10 years before the Wolff patent. But certainly the office action errs in presuming I take instruction from the cited teaching *to impose a lock* — therefore claiming I have borrowed from some ostensible obviousness, ultimately (and entirely) to do what is entirely beyond the scope of the preceding invention, which is to solve the preclusive circumstances imposed by locking conventions. **The locking condition merely exists as a usual obstruction which can be encountered in a competitive data processing environment, which obstruction my invention overcomes.**

Moreover, rather than *providing cooperation*, as the office action presumes, the very imposition of locks is itself even *intended* by its implementers to *prevent* simultaneous operation on data; and the very reason for this is no previous convention has existed, no previous convention has been apparent, and certainly no convention has been obvious, to permit, and certainly to support unlimited processes to operate on one instance of data simultaneously. **In fact, because of the very unobvious nature of my invention, the prior art has suffered the preclusive nature of data locks across its entire history to now.**

But even more blatantly, certainly no convention has existed not only providing for unlimited processes to simultaneously operate on a data instance insofar as may engender simultaneous demands for a given instance of a data lock, **but *also* providing for the obligation of any and every one of those processes to write to endure, and to automatically be performed successfully, even across catastrophic failure of the operating environment.** No evidence is cited, and I find no evidence exists, to rightly assume that either Wolff or Van Huben even *imply* such a thing, much less teach it. In fact, neither Wolff nor Van Huben even suggest this accomplishment of my invention is possible; **and certainly the entire Wolff patent only suggests not only that he accepts the limitations imposed by the regular convention of locking, but that he intends in his invention to carry on that tradition *as is* — as if no higher resolution of the issue, which precludes the operations of but one process, is possible or conducive to the success of all potentially contending processes.**

Further still, and contrary to the assumptions of the office action, **no degree of cooperation whatsoever is provided by record locking.** Van Huben in fact appears merely to use the word “cooperate” to describe the disposition of engineering personnel. But certainly he describes no means or apparatus whatsoever, capable of prevailing over the preclusive circumstances imposed by record locks. On the contrary, the entire body of the cited work is a testament that the potential for unresolved conflict between two or more processes needing to write to the same data instance is not even anticipated (or this issue would **necessarily** be addressed, and means and apparatus which are not provided, would necessarily be provided).

The degree of “cooperation” the office action mistakenly assumes to exist from the mere incidence of this word therefore is in reality a convention no more useful in terms of real cooperation than providing a signal which can only be

interpreted as indicating to one process that its operations can be performed, **and to all others that their operations cannot.** There is no means of cooperation whatsoever, as there is no means whatsoever for overcoming the preclusive condition imposed by a data lock. Within the Wolff and Van Huben patents still, only one process can possess the singular, tokenized right to write to a data instance; and all other processes can only fail so long as this preclusive condition persists.

As very well described in my petition, conventional systems such as embodied by the Wolff and Van Huben patents have no power to overcome the imposition of these locks, or to prevail in their competing obligations to write even after catastrophic failure of the operating environment, particularly because they lack A) the explicit structure of my private work areas; B) association of these areas with the process; C) concurrent registration of vital states to retentive media; D) explicit representation of the original intention to operate on the data by the organization of the private states; E) timing and incidence of my explicit definition of truly concurrent registration (sufficient to achieve these objects); and F) specific analytical features of my cooperative processing objects. To share the capacities of my invention, the Wolff and Van Huben patents must share **all** of these features together, while the entire scope of my invention's capacities lies entirely outside the scope of both patents.

In short, neither the Van Huben nor Wolff patents *can* accomplish my objectives.

But neither do the Wolff or Van Huben patents even *intend* to.

In the Abstract of the Van Huben patent for instance, where Van Huben states, "Managers act as building blocks which can be combined in a plurality of manners to support an environment for [sic] suitable for multiple users of a user community," he neither means that managers literally "act" like building blocks any more than he means that results of different processes invoked by multiple users can write their results to a same data instance simultaneously if all but one of those processes must be denied the exclusive write privilege the Wolff and Van Huben prior art methods cannot truly promise but to one process, or that any process's obligation to write will endure and automatically succeed, even across catastrophic failure of the operating environment. **Obviously, Van Huben makes no attempt to provide either means or apparatus, or explanation even, suggesting how data locks are overcome (as the office action confesses, Van Huben does not even mention data locks), or how unperformed processes can survive catastrophic failure of the operating environment. These are not even issues of the Van Huben patent.**

The Van Huben patent is of much narrower scope. It is instead an end user application with a goal of supporting cooperation *among engineering personnel*. It does not at all suggest it provides cooperation of contending processes, obligated to write their results; competing for a singular, exclusive privilege to write; and endowed with no power to overcome denial of that vital privilege. Van Huben does not even mention these issues, **and, by explicit evidence addressed later in this response, he clearly demonstrates he merely assumes contended processes will simply succeed, despite the very probability of failure my invention alone addresses.**

The engineering *personnel* are together engaged in designing electronic circuitry. The cited cooperation is no capacity for unlimited processes to actually operate on data instances simultaneously, particularly as will engender simultaneous demands for an exclusive write privilege.

Likewise, the very objects of the Wolf patent are clearly declared not even to intersect with my own. In the Abstract of the Wolff patent for instance, the object of the invention is "coherence" of data volumes [units of storage], the responsibility for the maintenance of which coherence is shared by clients. Remarkably, and particularly, in the scheme proposed by Wolff, according to the Abstract, "The system also includes control processes each executed on a client. **The control processes request and acquire *EXCLUSIVE* ownership of the control table to provide to the clients *EXCLUSIVE* write access to the data storage volume.**"

As I have already explained, there is nothing unique about this, nor does the generic encumbrance comprise cooperation. As Wolff explicitly states, **the ownership of the lock is *exclusive***. Without any other provision whatsoever, it is therefore PRECLUSIVE to all other processes. His purported claim of deploying locking conventions then is merely a reiteration of conditions we all must contend with since locks were first invented, long before Wolff, and since data locking conventions were necessarily imposed so that related hardware processes can succeed in performing a single instruction at once, versus possibly being required to perform multiple, conflicting instructions at once — which, as the usual processes are inherently serial, is impossible.

In conventional practice, in fact owing to the probability of failure incumbent to the prior art and inherent to the fact the prior art lacks any further, effective provision whatsoever to guarantee that competing processes will acquire locks, **the exclusive privilege to write is often sought in advance of the actual need to write, in the hope it can be determined before the initiation of a process, that the process can be ensured completion.** This further means that singular, exclusive locks can **persist, and that their potential duration multiplies the very probability of contending, precluded demands for given lock instances.** To this very day for instance, SQL administrators regularly lock entire databases to exclude possible contending processes, to perform global operations, so such operations **can** succeed.

In regard to the vital need for the singular lock however, **Wolff establishes no means or apparatus which will guarantee, even under sustainable network conditions, that an exclusive lock will be acquired.** Neither does the prior art. Neither he nor the prior art can do this because they have provided no abstraction whatsoever worthy of performing simultaneous operation on singular data instances and guaranteeing the lock will be made available to ALL processes potentially requiring the lock, as in my application. The entirety of EMBODIED purposes, means, and apparatus of my invention therefore, are clearly outside, and share no common ground with Wolff, or the prior art.

The only difference between the implementation of Wolff and SOME conventional implementations might be that the lock is applied to a "control table" (to symbolize the lock usually instead associated more directly with the data), but this itself is an obvious extension (equivalent symbolization) of the usual, more direct association of the lock with the record or field of data, and what benefit this might be is not even demonstrated, particularly as it can only have the same effect as associating the lock directly with the data. But if

his object is to overcome the imposition of such locks to permit unlimited processes to simultaneously operate on one same data instance, it is certainly an error to think conversely that I have taken instruction from this practice which **comprises** the very obstruction to the class of cooperation I provide — the thinking of which itself runs in strict opposition to the evident thinking of Wolff, which is to emulate and to exist entirely within the faulty confines of the very conventional approach which imposes the obstruction my invention overcomes. The entirety of my invention stands on the opposite side of the issues. It is utterly impossible the claims are equivalent.

Where does Wolff overcome this obstruction for instance; and does he not instead *impose* this obstruction explicitly for the benefit of relatively primitive operations to which he explicitly gives no power to overcome obstruction by the very exclusive nature of the lock? Absolutely, because 1) if the alternate case existed that more than one process could actually perform its obligation to write simultaneously (without further provision), then the locking convention itself would be redundant to *his* processes (as it is to mine); and because 2) without the provisions for cooperation specified instead by my invention, the imposition of locks is useful solely to symbolize a momentary (but however enduring, obstructive) privilege, thus complying with the simple limitations of the underlying hardware processes, by conceding failure of any further, contending processes. Wolff makes no effort to overcome every such obstructive, potential circumstance. **Therefore, nothing even exists in the teaching of Wolff or Van Huben, which is at all instructive in overcoming the obstructions they merely leave their processes to, without even any recognition that as a result of the exclusive nature of data locks, processes will fail.**

A most definitive combination of cooperative, resumed behavior on the other hand is the explicitly stated purpose of my invention; and the potential for process failure engendered by the exclusive, preclusive nature of any and every method symbolized by data locks is the very inspiration for my work beyond Wolff, Van Huben, and the prior art. Beyond this theoretical summary of the issues, and despite the fact any further defense against the action requires further reiteration, I therefore will reply to some of the points of the office action in particular.

In points 1 and 2 of the detailed action, the office action 1) correctly re-declares my intention to retain the claims the examiner advised he intended to reject, and 2) cites the well known case for obviousness rejections.

Both my application and the preceding arguments however clearly establish on every issue that the office action is in definite error in presuming obviousness, or presuming that either Van Huben or Wolff even intended to achieve my objectives, or thought them possible. Moreover, in the history both before and since the cited Wolff and Van Huben patents, it is my understanding that no software or hardware development house in the world has likewise deemed it obvious from these patents, or sufficiently instructive from these patents or from any further work by the inventors, or from any other work, **to produce applications which not only cooperatively operate on data simultaneously (succeeding even in simultaneous obligations to write otherwise precluded by the singular, exclusive nature of data locks), but which survive in their obligations to write to shared data instances even across catastrophic failure of the operating environment — a capacity inherent to the unique combination of means**

and apparatus of my invention, and therefore unique to my invention. If it is at all useful then that applications, operating systems or processes succeed in their intentions even across catastrophic failure of the operating environment, **the fact no one, not even Wolff or Van Huben embodies the purportedly obvious implementation of this highly desirable class of reliability in any existent application, hardly attests to truth in any mere assertion that my invention prevails in these distinguished purposes by following a pattern ostensibly, previously established by Wolff or Van Huben.** On the contrary, the entire thrust of my invention is opposed to the unqualified assumption of Wolff or Van Huben, and the entire means and apparatus of my invention are outside and opposed to the unqualified assumption of Wolff or Van Huben, that potentially contending processes merely, *simply* succeed in acquiring an *exclusive* privilege to write.

Moreover, as neither Van Huben or Wolff demonstrate any means or apparatus capable of supporting unlimited processes operating on the same data instance simultaneously, and as neither have Van Huben or Wolff demonstrated any means or apparatus capable of ensuring that obligations to write to that data instance will even survive catastrophic failure of the operating environment, **then certainly they have neither accomplished a combination thereof.**

Nor can their work be truly claimed to be instructive in any such sense, particularly if they do not even suggest these much higher objectives are possible — and if their work itself instead attests to a disposition merely to submit their simple, primitive processes to the preclusive circumstances imposed by the generic convention of EXCLUSIVE data locks. In other words, their thinking can hardly be heralded as instructive in overcoming the very preclusions they think only to concede to, within which scope neither even recognize a critical potential for their processes (which are not endowed with the means and apparatus of my invention) to fail.

A basic response to the remainder of the first of the enumerated details of the action follows. In regard to each column and line citing, I've responded in a subdivision of the same enumerated detail. In other words, "3.1." indicates a response to the first column-line citing of detail "3." I have marked the office action's assertions, which often continue from sub-point to sub-point, in bold and quotes.

3.1.

"Van Huben teaches a method of cooperatively processing public data (see col. 6, lines 51-54), comprising:"

There is absolutely not ANY capacity provided, or explicitly or implicitly described or claimed, which provides for potentially contending processes competing for the singular privilege to write to a data instance, TO COOPERATE.

In his very summary of his invention, starting instead with line 50 and including line 54, the cited material is:

"Our invention provides a design control system usable *in a concurrent engineering process* which can cooperate in a distributed environment worldwide to enable a design to be processed with many concurrent engineering *people* and processes."

The office action cites this material as establishing a Van Huben patent capacity to provide the capacities of my invention. Nothing could be less supportive or conclusive, or in greater violation of the entire specification, because there is not one trace of verbiage in this patent even that the authors recognize that one process acquiring an exclusive lock precludes all other processes from writing to that data instance, or that it might be useful to overcome this inherent, preclusive obstruction to which Wolff, Van Huben, and the prior art are subject.

Aside from the poor and potentially misleading grammar of referring to "many concurrent engineering *people*," if we read the patent we find that Van Huben is explaining that *people* are concurrently working on a common goal, and that the information the application merely *provides* to them (versus is subject to simultaneous processing) makes it possible for them to cooperate in their activities. He cites no means or apparatus whatsoever by which unlimited processes could simultaneously operate on a data instance even insofar as is vital to guaranteeing the singular, exclusive privilege to write process results. *None* of the cited processes are given the power to overcome preclusion of operation by the accepted convention of purposely exclusive data locks. **As the office action concedes, Van Huben does not even once explicitly MENTION data locks.**

Moreover, he explicitly states that his data may be incorporated in a 'flat file system,' which is well known across the present art to, in and of itself, provide no cooperative capacity whatsoever, as would necessarily overcome process preclusion by the awarded existence of an exclusive, singular data lock.

Further still, the objects of the application are clearly described to support management of *issues* — not solution of the underlying problems engendered by the possibility that multiple obligations to write can exist simultaneously in a competitive, preclusive environment, encumbering *any* of the generic relational database systems his invention is declared to be a member of.

3.2.

"...distributing the public data to private representative states (see col. 12, lines 23-26, Van Huben);"

There is absolutely not ANY distribution of public data to ANY FACSIMILE of the private representative states explicitly described by my application.

The Van Huben patent entirely lacks the explicit form and substance of the private representative states of my application, or the vital attendance of my cooperative processing object, or the concurrent registration of private representative states, which *altogether* comprise a further system in its entirety beyond the Wolff and Van Huben patents or prior art, in which processes (and therefore the application itself) are focused on a logical body of private states related to a public data instance, as usual processes are instead focused on the public state of the data instance. The system advocated by my invention in effect comprises an additional area altogether, where, until the results of processes confirm a need or obligation to write to the public instance, operations are performed on the perhaps many, separate private instances *representing* so many states of a single public data instance. Vital and conjoint to this system is my cooperative processing object, which is endowed with the several further vital responsibilities of determining whether the results of processes need to be written to the public data instance (even after failure of the operating environment); reiteratively attempting to acquire

the exclusive lock; minimizing lock duration by writing all at once only what particular data must be written, and immediately freeing the lock; guaranteeing that vital locks will be acquired in any sustainable system; and even maintaining the relationship of the application or processes to tentative, contingent states of data — all of which are vital to accomplishing the goals of my invention.

Not only does the Van Huben patent (and Wolff patent and prior art) lack this separation of the means and apparatus of my invention altogether... in the prior art, process results are volatile — they cannot survive even from session to session, much less can they survive catastrophic failure of the operating environment, which requires altogether that all necessary states exist in retentive media; that changes to any state are concurrently registered to the retentive media; and that the application relate to the private representative states concurrently registered to retentive media as the conventional application relates more directly to the public data instance, which it usually merely processes in volatile memory, converse to processing a retentive, private representation thereof. Moreover, the *many* representative states of my application are vital to conditional processes of my invention which determine and resume (successfully apply) an obligation to write, even after catastrophic failure of the operating environment.

Therefore, there is no order in the organization of the cited "private representative states" sufficient to support simultaneous operation on a data instance, or resumed obligations to write.

Nor does the cited material even declare any intention to operate on the data (which inherently involves writing). The relevant material includes lines 19-29:

"Although the official 'control' information is centralized in one place, the DCS permits certain data to be cached locally on the users [sic] machine to improve performance by reducing traffic to the Design Control Repository. For example, much of the control information for private libraries can be cached locally in order to maximize performance for private library ACCESSES [NOT WRITING! Nor is there any mention of a vital structure, or the necessity of multiple instances which are vital to resumed obligations to write, even capable of surviving therefore, catastrophic failure of the operating environment]. For public libraries, the DCS allows the user to take 'snapshots' of a library in which the image of the library is refreshed locally. The user continues to work with his local image of the library until he deems it necessary TO REFRESH the image [ACQUIRE a new copy from the public data structure; not WRITE to the public data structure]."

No provision whatsoever is made for multiple, simultaneous obligations to write to be guaranteed success in competitive environments.

Not only is there no vital organization of this data as specified by my application, **there is not even any declared *intention* to write to this data.**

If there were however an intention to write to this data as obligatory to processes truly cooperatively processing the data, a mechanism to overcome any lock imposed on the data is vital. No such mechanism as thoroughly described in my specification exists in either of the cited patents (which instead simply subject their processes to the locking convention, and merely assume that all processes will simply acquire such an exclusive lock whenever necessary). Yet overcoming the preclusive circumstances imposable by every such lock is the principal purpose of my application.

Furthermore, to achieve the persistent, automatically performed obligation to write which is intrinsic and unique to my invention, then unless all operations, however tentative, are to be written (which, lacking the provisions of my invention, rarely can otherwise safely be assumed anywhere any operation might not at any moment be finished), even across catastrophic failure of the operating environment, it is also necessary to keep a last posted state and/or last acquired state as from which my CPO determines and performs any obligation to post. This too is entirely lacking and certainly never mentioned in the Wolff or Van Huben patents. Yet to achieve this objective for instance, it is also necessary to endow a cooperative processing object with the powers of my invention, such as its automated performance of the obligation to post before focusing a different record or data instance. Neither is any such thing ever mentioned. Therefore neither of these patents provide any power whatsoever that processing is resumed, or resumed even across catastrophic failure of the operating environment.

Furthermore still, if we are to maintain the actual state of an application even across inadvertent termination or catastrophic failure of the operating environment, then it is necessary to maintain all potentially revertible states of the operated data so that the tentative state itself can even be recognized, as likewise is unique to my specification. The Wolff and Van Huben patents lack all of these vital respects. No more than one process can even be guaranteed its privilege to write at once. This therefore is no basis whatsoever to claim these more primitive inventions possess even the least attributes and capacities of my invention, even as a purpose of these inventions is merely to concede to the traditional tokenization of the singular privilege to write, rather than the contrary — to solve the limitations it imposes upon us.

3.3.

"...without holding an exclusive privilege to write to the public data (See col. 89, lines 32-34, Van Huben), generating private states of the public data by processing one or more private representative states of the public data (see col. 12, lines 23-26, Van Huben); and..."

Again, neither are there any private states as described by my application; nor is there any instance whatsoever of the explicit, vital processes of my invention.

The cited col. 89, lines 32-34 [actually, including line 35] read:

"The DILRRSCS userid has read/write privileges to all the /.DSI subdirectories. The *movement* of files is accomplished via the sender building a transfer subdirectory, containing the files to be TRANSFERRED..."

This convention is entirely restricted to reading and writing files to TRANSFER them — NOT for multiple processes to cooperatively process the data IN them.

Lacking ANY of the many vital features of my application then, not only does the expression provide evidence there is NO attempt to support simultaneous operation on data by many processes, or resumable processing complete even in performance of every obligation to post (even across catastrophic failure of the operating environment)... THE VERY LIMITED PROVISIONS OF THIS PRIMITIVE ARCHITECTURE INSTEAD FURTHER ATTESTS THAT THE INVENTORS THEMSELVES MAKE NO ATTEMPT TO PROVIDE ANY SYSTEM AT ALL FOR POTENTIALLY CONTENDING PROCESSES TO COOPERATE IN TERMS OF PERFORMING A SAME OBJECT. The pattern of the cited instance, instead, is a

pattern of separating responsibilities to avoid the failures which will be engendered if BOTH sending and receiving entities are permitted to create transfer subdirectories, BECAUSE no provision whatever is made for the sending and receiving entities to BOTH be endowed with a ['safe'] capacity to perform this operation. THIS IS NOT AT ALL A PATTERN OF COOPERATION IN POTENTIALLY COMPETING PROCESSES.

Nonetheless, NONE of the capacities of my invention are conferred by this mere avoidance of delegating like responsibility to multiple, potentially contending processes. Nor is this ostensible teaching AT ALL instructive in accomplishing the objectives of my invention.

Lines 25-29 further read:

"For public libraries, the DCS allows the user to take 'snapshots' of a library in which the image of the library is refreshed locally."

As there is no mechanism for determining if public data has been altered, it is debatable the invention can even accomplish its goal of reducing traffic and improving performance, because merely for the user to know if they are observing current data states, no means is provided other than that they have to acquire a full copy of the data again. Many redundant transfers can therefore be engendered; and this proposition certainly then conflicts with principles necessary to minimizing bandwidth consumption. My invention on the other hand, by completely different means and techniques, is carefully explained to be a singular prescription for absolute minimum bandwidth consumption.

Nonetheless, this aspect too of the Van Huben invention provides no capacity whatsoever to cooperatively process a data instance as made possible by my invention. Nor does this aspect contribute at all to a possibility of resuming processing states, as likewise is possible solely by my invention (in respect to Van Huben and Wolff — and, as no applications of the genre my invention introduces appear as yet to exist, evidently then, also in respect to all preceding technologies). Nor again is there anything provided which is instructive in regard to accomplishing said objectives of my invention.

3.4.

"...updating the public data by cooperatively posting data from the private representative states (see col 43, lines 8-9 et seq., Fig 61b, Van Huben)."

Not only is there no facsimile of a cooperative posting object whatsoever, not even the vital responsibilities of such a thing are even intimated, much less explicitly suggested.

Lines 1-9 inclusive of column 43 read:

"Selecting Edit results in the same dialog box 19405 with the radio buttons being absent. In addition, the version name is filled in. The user can change either field. If the user selects Delete, the system checks to see that no data exists in that version, then displays a confirmation dialog box which the user must OK in order to proceed. Regardless of the change (adding a new version, editing an existing one, or deleting), the version map 19401 is updated accordingly."

Nothing whatsoever justifies construing this as cooperatively posting data as described in my specification: not a single element (other than mere, raw data — which itself is not even the representative data of my invention) of the entire means and apparatus I present to do so, exists in the Van Huben patent. The process described is generic technology (it is not even unique generic technology). No private state existing and concurrently registered to retentive media is described. The exemplified generic technology embodies instead a volatile state which cannot survive catastrophic failure of the operating environment, which furthermore is endowed with no services of a cooperative processing object as described in my invention and necessary to resolving the private (potentially many such) states, including performing any obligation to write and guaranteeing the successful acquisition of the write privilege, even after inadvertent process termination (before the process has completed this obligation), and even after catastrophic failure of the operating environment.

None of the vital issues are even mentioned.

3.5.

"Van Huben does not explicitly indicate the claimed exclusive privilege to write."

This is *BECAUSE* he makes NO attempt or claim whatsoever to overcome the well known and uniformly imposed restriction that only ONE process at a time can write to A given data instance. Neither Van Huben or Wolff even recognize by a single attentive element of their specifications, the probability of process failure engendered by the exclusive nature of the privilege to write — the solution of which, on the contrary, and outside their work therefore, comprises the thrust of my invention.

3.6.

"Wolff discloses the exclusive privilege to write (the control processes request AND ACQUIRE *exclusive* ownership of the control table to provide to the clients exclusive write access to the data storage volume, see col. 3, lines 12-15, Wolff)."

Certainly, merely conceding to the imposed, exclusive privilege to write is no prescription whatsoever for overcoming the fact the exclusive privilege is already granted to a contending process. On the contrary, the failure to provide the entire, extensive means and apparatus of my invention is a testament that the work of Wolff is restricted in its entirety to the opposite side of the issue — mere concession.

Nor do I claim imposing a singular, exclusive privilege to write — which merely has existed since at least a decade before Wolff, as a condition we must contend with. I *solve* the problems engendered by the exclusive nature of this privilege to write. Wolff and Van Huben do not even recognize the problems engendered by the exclusive nature of the data lock, much less do they solve them.

Furthermore, Wolff and the office action ONLY *ALLEGE* that write access IS ACQUIRED, when in fact Wolff provides no means or apparatus whatsoever even for a process to acquire that singular privilege after being denied the privilege for whatever duration another, contending, quite possibly persistent process retains it — thus depriving said later process from *ever* acquiring the privilege both if its powers to wait are exhausted [of which none are

described, while my invention introduces this vital aspect], or if an additional means, clearly provided likewise only by my petition, does not exist to ensure that lock durations persist for minimal periods. (This means of course, necessarily involves the entire field of aspects related to the explicit private work areas of my invention.)

Nothing in the Wolff patent suggests such measures likewise, because Wolff is not SOLVING the problems imposed by the exclusive, singular privilege to write.

Quite on the contrary, he is merely CONCEDED to the problems I solve, and which PROBLEMS I certainly do not claim to be a respect of my invention.

The cited material, in conjunction with the lack of the necessary attributes of my invention, therefore conclusively demonstrates the very disposition of the Wolff patent and my invention are strictly opposed. There is nothing whatsoever to be taught from the Wolff or Van Huben patents, or to be assumed from these patents, which even suggests that these preclusive conditions which I have exhaustively elaborated, even potentially engender adverse ramifications. Wolff does not even appear to be aware his processes may be denied their vital, exclusive privilege to write to their data, even though the very existence of the lock is clearly described to be [strictly] EXCLUSIVE.

3.7.

Nonetheless, the office action further alleges, **"It would have been obvious to one [sic] ordinary skill in the data processing art at the time of the present invention TO COMBINE the teaching of the cited references because the exclusive privilege to write of Wolff's teaching would have allowed [HOW IS TO EXCLUDE, TO ALLOW?] Van Huben's system [sic] distributed control of shared resources on a computer network as suggested by Wolff at col. 1, lines 39-40 [sic]. Exclusive [sic] privilege to write as taught by Wolff [sic, and untrue, as the exclusive privilege existed long before Wolff] improves [HOW IS TO EXCLUDE, TO IMPROVE THE POSSIBILITY THAT CONTENDING PROCESSES WILL SUCCEED IN THEIR OBLIGATIONS TO WRITE?] multiple clients on a network share [sic] over and [sic] responsibility for the [sic] coherency of a data storage volume (see col. 3, lines 5-6, Wolff)."**

Again, this document, and my petition as well, already have thoroughly demonstrated, on the contrary, that no cooperation and no 'improvement' whatsoever are provided by the imposition of an EXCLUSIVE privilege to write (which actually exists in the limitations of the hardware). Rather than providing true cooperation, processes are precluded by recognition of the symbolization of the lock, and the effects or ramifications of this are singular: All further processes are denied the vital opportunity to write to the data BECAUSE the lock is INTENTIONALLY EXCLUSIVE.

3.7.1. In no way therefore are the cited "teachings" COMBINED in the present invention. Wolff merely concedes to the imposed, exclusive lock. I overcome it.

3.7.2. **Neither do the cited teachings have ANY power to provide truly cooperative, resumable behavior.**

3.7.3. Nothing is "allowed" to any other process by a *singular, exclusive* privilege to write. In order to overcome the preclusive circumstances very well

already explained in my application, the very attributes of my invention are vital. Data processes subject to a competitive processing environment do not profit from exclusion – they can only suffer from exclusion. IN FACT, IF THEY CANNOT BE GUARANTEED SUCCESS IN THE FACE OF EXCLUSION, THEY **WILL FAIL EXPLICITLY** BECAUSE OF THE INTENTIONALLY EXCLUSIVE NATURE OF 'LOCKS,' for which the cited patents and prior art make no provision to overcome.

Moreover, not only are NONE of the distinguished attributes of my invention necessary to solving process preclusion and guaranteeing process success (even across catastrophic failure of the operating environment) taught by either Wolff or Van Huben, **neither Van Huben or Wolff THEMSELVES claim any capacity whatsoever to support multiple processes simultaneously operating on the same data instance, and guaranteeing those processes will succeed in their objects (inherently, to write their results to the competed data).** Again, the fact the Wolf and Van Huben patents are restricted entirely to conceding to the data locking convention which imposes the preclusive/exclusive circumstances which my invention instead solves, attests that the allegation that even my processes of doing such utterly opposite things are the same, is impossible!

It is understood by any practitioner of reasonable skill of the present art however, that computer processes, and particularly, more intensively technical computer processes, do not succeed in their objects by mere casual association with terms which may be used in reference to highly different processes, not even designed to produce equal results, and which do not even operate on the same things. Because a data instance may be considered private to one process for instance, absolutely does, and by the very definition of private does not make that data private to another process (particularly if the process does not even exist in the Wolff and Van Huben patents), and particularly then does not necessarily make that data or related processes private or registered in ways which may be vital to protective isolation of the data, or success of the processes of my invention, even across catastrophic failure of the operating environment. **It would be as inaccurate to allege that because the different processes are processes, they are the same.**

These facts are very well known to the art. Processes subject to the limited conventional capacities of the Wolff or Van Huben patents are not even guaranteed their vital privilege to write. The very purpose of the exclusive privilege to write is to deny the privilege to competing processes. But as to Wolff or Van Huben processes even succeeding across catastrophic failure of the operating environment, as is a distinguished virtue of the very means and apparatus by which my invention even accomplishes cooperation, it is certainly untrue to allege even a similar power for contending, excluded processes to cooperate above a singular privilege to write, **when in fact even the inventors of the cited patents claim no such power whatsoever.**

Particularly in computer technologies, loose generalizations do not confer on one process the capacities of another. In none of the succeeding instances does the office action demonstrate to the least degree that either of the cited inventions has any power even to support simultaneous operation on a data instance by unlimited processes. Furthermore, there is no provision whatsoever for processes denied the exclusive privilege to write to succeed. Moreover, no power whatsoever for processes to succeed after catastrophic failure of the operating environment **is even mentioned.**

In fact, that my invention provides for innumerable processes to succeed in acquiring that vital privilege is itself a very significant achievement. Yet that my (same) processes are guaranteed to succeed even across catastrophic failure of the operating environment is most certainly far beyond the scope of either cited patent.


The telling proof of the real capacities and similarities of the inventions of Wolff and Van Huben assumed by the office action however is, *do* these inventions produce the explicit objectives of my invention? **Neither of the inventors claims their inventions do.** Yet the advent of the innovations I introduce is far too striking and important that an inventor of such capacities would possibly fail even to mention them in the very inventions ostensibly embodying these very important capacities.

Moreover, because the approach of my application is opposite to the Van Huben and Wolff patents, which merely persist in the encumbering tradition of locking conventions, absolutely nothing in the Wolff or Van Huben patents is instructive to providing the necessarily many-faceted solution my application provides.

Therefore, because these arguments refute all of the office action's assumed, further points of refusal — which points likewise purportedly mean to extend a case (from this same material) that I borrow from the teachings of Wolff or Van Huben which in fact are opposed to my invention — I have not responded in further reiterative particular to any of the further body of allegations of the office action that my means and apparatus are identical (in either their methods or objects) **to means and apparatus obviously not even intended or claimed to provide the functionality of my invention, and not even recognizing the body of problems the cited inventions strictly impose, and which on the other hand, my invention is devoted strictly, and very distinguishably, to solving.**

I trust therefore that the Patent Office and all further earnest students of this material, will find that the entire bodies of the cited documents, in every detail, absolutely concur with this written testimony.

I hereby petition for an extension of time of three months, to October 4, 2005, for responding to the Office Action dated April 4, 2005. Enclosed is a check in the amount of \$510 to cover the requisite fee.



Mike Montagne — Senior Engineer, CEO, ADVANCE Information Systems, Inc.